IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITON NO.742 OF 2005

Vikram Ispat
(a unit of Grasim Inds. Ltd. & Anr.) ..Petitioners.

V/s.

Union of India & Ors. ..Respondents.

Mr.Milind Vasudeo i/b. R.Ravindran for petitioners.

Mr.S.M.Shah with Mrs.S.V.Bharucha for respondents.

CORAM : V.C. DAGA AND
J.P.DEVADHAR, JJ.

DATED : 7TH APRIL, 2005.

P.C. :-

1. Rule, returnable forthwith.

2. Heard finally by consent of the parties.

3. This petition is directed against the order dated 21/2/2005 passed by the Commissioner of Central Excise (Appeals) Mumbai [incorporated at Exhibit - Q, page 96] directing pre-deposit of 50% of the amount demanded by the Joint Commissioner within 2 weeks. In the impugned order no reasons are to be found in support of the order in question. Merely saying, "No strong prima facie case is made out" cannot be said to be the reasons in support of the order directing pre-deposit. Needless to mention

that the order should be self explanatory and should not keep the higher Court guessing for reasons. Reasons provide live link between conclusion and evidence. It is a tool to judge the validity of the order in the event of challenge.

4. One of the contentions raised in the petition is that, show cause notice has been issued by a person having no authority. No consideration to this submission is to be noticed in the impugned order. We have examined the order and we find that without recording reasons in support of the order, the appellant could not have been directed to deposit the amount by way of pre-deposit.

5. In the above view of the matter, we quash and set aside the impugned order and remit the matter to the Commissioner of Central Excise (Appeals), Zone - II, Mumbai for consideration afresh. While considering the question of dispensing with the pre-deposit, the Commissioner also is expected to prima facie examine the basic right of the authority to issue show cause notice in question. With these observations, the petition is disposed of. The impugned order is quashed and set aside. Rule is made absolute in terms of the above with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)